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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
1300 I STREET, NW
WASHINGTON, DC 20005

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In re Application :
Wilk, et al. : **OFFICE OF PETITIONS**
Application No. 09/828,794 : PATENT TERM ADJUSTMENT
Filed: April 10, 2001 :
Dkt. No.: 7883.011-01 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed August 19, 2004.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is **GRANTED TO THE EXTENT INDICATED HEREIN.**

The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance and Issue Fee Due reflects an adjustment of 297 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicants request that the Determination of Patent Term Adjustment be corrected from 292 days as indicated on the Determination of Patent Term Adjustment mailed May 20, 2004 to 320 days.

A review of the application history reveals that an adjustment of 333 days under 37 CFR 1.702(a)(1) can be attributed to the Office. In accordance with 37 CFR 1.703(a)(1), the adjustment began June 11, 2002, the day after the date that is fourteen months from the date the application was filed, and ended May 9, 2003, the date the non-final Office action was mailed. There were no further delays attributed to the Office¹.

¹ The initial Determination of Patent Term Adjustment indicated an adjustment of 23 days for Office delays under 37 CFR 1.702(a)(2) relative to the mailing of the final Office action on December 23, 2003. The Office timely mailed the final Office action within four months of the date the supplemental response to the non-final Office action was filed, thus, the adjustment of 23 days is in error.

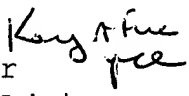
In accordance with 37 CFR 1.704(b), the adjustment of 333 days is reduced 36 days for applicants' failure to engage in reasonable efforts to conclude prosecution. The reduction began August 1, 2003, the day after the date that an initial response to the non-final Office action was filed, and ended September 5, 2003, the date of submission of a supplemental response.

In view thereof, at the time of Notice of Allowance the application is entitled to a patent term adjustment of 297 days.

The required fee of \$200.00 for an application for patent term adjustment has been submitted.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.


Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation